

Clerk
District Court

AUG 30 2005

For The Northern Mariana Islands
By _____
(Deputy Clerk)

DAVID G. BANES, Esq.
O'Connor Berman Dotts & Banes
Second Floor, Nauru Building
P.O. Box 501969
Saipan, MP 96950
Telephone No. (670) 234-5684
Facsimile No. (670) 234-5683

Attorneys for Plaintiffs Elenita A. Santos and Angel Santos

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

**ELENITA A. SANTOS and
ANGEL SANTOS,**

Plaintiffs,

vs.

**HONGKONG ENTERTAINMENT
(OVERSEAS) INVESTMENTS LIMITED
dba TINIAN DYNASTY HOTEL &
CASINO, and CENTURY INSURANCE
CO. LIMITED,**

Defendants.

CIVIL CASE NO. 04-0030

**DECLARATION OF DAVID G. BANES
IN SUPPORT OF CROSS-MOTION
FOR PROTECTIVE ORDER**

Judge: Munson, Chief Judge

Date: September 1, 2005

Time: 9:00 a.m.

I, David G. Banes, declare under the penalty of perjury that the following is true and based upon my personal knowledge, except where noted otherwise, and if called to testify, I could do so competently:

1. I am the attorney of record for Plaintiffs in this case.

2. Defendants filed a Notice of Deposition in this matter, stating that they would depose Plaintiffs on July 15, 2005.

ORIGINAL

1 3. Plaintiffs arrived at the agreed upon time and place for the deposition, but it was
2 continued at the suggestion of Defendants to an unspecified date in the future.

3
4 4. Defendants have not, as of the date of this declaration, filed any further Notices
5 of Deposition for Plaintiffs.

6
7 5. The cut-off date for serving of discovery was August 1, 2005.

8
9 6. Defendants did not seek leave to amend the scheduling order prior to this date.

10
11 7. In fact, I believe the parties had an agreement that each of the parties could be
12 deposed despite this deadline. However, given Defendants' Motion for Protective Order,
13 apparently Defendants disagree. Accordingly, if Plaintiffs cannot depose Defendants,
14 Defendants should not be entitled to depose Plaintiffs.

15
16 8. On August 30, 2005, I contacted defense counsel in an effort to resolve this
17 matter, but he was unavailable. *See* Exhibit A hereto.

18
19
20 Dated this 30 of August, 2005.

21
22
23
24 

25 _____
26 David G. Banes
27
28

SAIPAN OFFICE
Second Floor, Nauru Building
P.O. Box 501969
Saipan, MP 96950-1969
Telephone: (670) 234-5684/5
Fax: (670) 234-5683
E-mail: attorneys@saipan.com

HONOLULU OFFICE
Suite 2800, Pacific Tower
Bishop Square, 1001 Bishop Street
Honolulu, Hawaii 96813-3580
Telephone: (808) 585-8858
Fax: (808) 599-4198
E-mail: mark@shklovlaw.com

O'CONNOR BERMAN DOTT & BANES
ATTORNEYS AT LAW
SAIPAN OFFICE
www.pacific-lawyers.com

GUAM OFFICE
Suite 503, Bank of Guam Bldg.
111 Chalan Santo Papa
Hagåtña, Guam 96910
Telephone: (671) 477-2778
Fax: (671) 477-4366
E-mail: bermlaw@kuentos.guam.net

POHNPEI OFFICE
Second Floor, Ace Commercial Building
P.O. Box 1491, Kolonia, Pohnpei,
Federated States of Micronesia, 96941
Telephone: (691) 320-2868
Fax: (691) 320-5450
E-mail: bermlaw@mail.fm

August 30, 2005

By Telecopy and Email

Colin Thompson, Esq.
P.O. Box 501280
Saipan, MP 96950
Fax: 233-0776
colin.thompson@saipan.com

Re: *Santos v. Tinian Dynasty et al.*

Dear Colin:

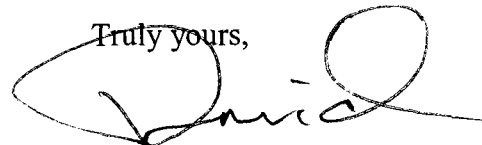
I hope you and Kimmy are doing great.

I called your office today several times but I guess you are quite busy. During our meet-and-confer last week, I guess I misunderstood what you said. I thought Defendants were seeking a protective order only as to discovery of financial information, not as to the entire depositions. In other words, I thought once we resolved the issue as to obtaining financial information, we could depose Defendants. I now see Defendants in fact are refusing to be deposed altogether. I regret the confusion.

Anyway, as I had for almost six months discussed deposing at least Tinian Dynasty and I repeatedly stated we wanted to depose Defendants **after** we resolved our on-going discovery, and as I tried to meet-and-confer with Defendants multiple times, and as we agreed to continue the depositions of Plaintiffs, I thought we had a working understanding that the parties could be deposed despite any deadline. Apparently, Defendants disagree. Given Defendants' Motion, I'm afraid we will no longer agree to Defendants deposing Plaintiffs and we will file a similar Motion for Protective Order.

I hope this is just a hiccup in our otherwise excellent working relationship and I still look forward to the possibility of amicably resolving these discovery issues as well as this case. As always, please feel free to contact me. Thanks.

Truly yours,



David G. Banes

bcc: Joe Santos (by email)
Elaine Santos (by email)

3087-01-050830-Ltr-CThompson-rcr

Exhibit "A"